

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TWITTER, INC.

Petitioner

v.

VIDSTREAM, LLC

Patent Owner

Case IPR2017-00830
U.S. Patent No. 9,083,997

**PATENT OWNER VidSTREAM LLC'S
ORAL HEARING DEMONSTRATIVE EXHIBITS**

In accordance with the Oral Hearing Order (Paper 61), Patent Owner
VidStream LLC hereby submits its oral hearing demonstrative exhibits.

Dated: October 22, 2018

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

/Eagle H. Robinson/

Eagle H. Robinson (Reg. No. 61,361)

Lead Counsel for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on October 22, 2018, complete copies of Patent Owner VidStream LLC's Oral Hearing Demonstratives were served on the following:

David L. McCombs, Reg. No. 32,271 Haynes and Boone, LLP 2323 Victory Ave. Suite 700 Dallas, TX 75219 T: 214-651-5533 F: 214-200-0853	Gregory P. Huh, Reg. No. 70,480 T: 972-739-6939 Theodore M. Foster, Reg. No. 57,456 T: 972-739-8649 Raghav Bajaj, Reg. No. 66,630 T: 512-867-8520 Jamie H. McDole, Reg. No. 69,875 Haynes and Boone, LLP 2323 Victory Ave. Suite 700 Dallas, TX 75219 F: 214-200-0853 Sonal Mehta, <i>pro hac vice</i> Durie Tangri LLP 217 Leidesdorff St. San Francisco, CA 94111 T: 415-362-6666 F: 415-236-6300
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via email (by consent), as follows:

david.mccombs.ipr@haynesboone.com
gregory.huh.ipr@haynesboone.com
ipr.theo.foster@haynesboone.com
raghav.bajaj.ipr@haynesboone.com
Jamie.mcdole@haynesboone.com
smehta@durietangri.com

Respectfully submitted,

/Eagle H. Robinson/
Eagle H. Robinson (Reg. No. 61,361)

Patent Owner's Demonstrative Exhibits

IPR2017-00829, -00830

Oral Hearing
October 19, 2018

'997 Patent (829 and 830 Proceedings)

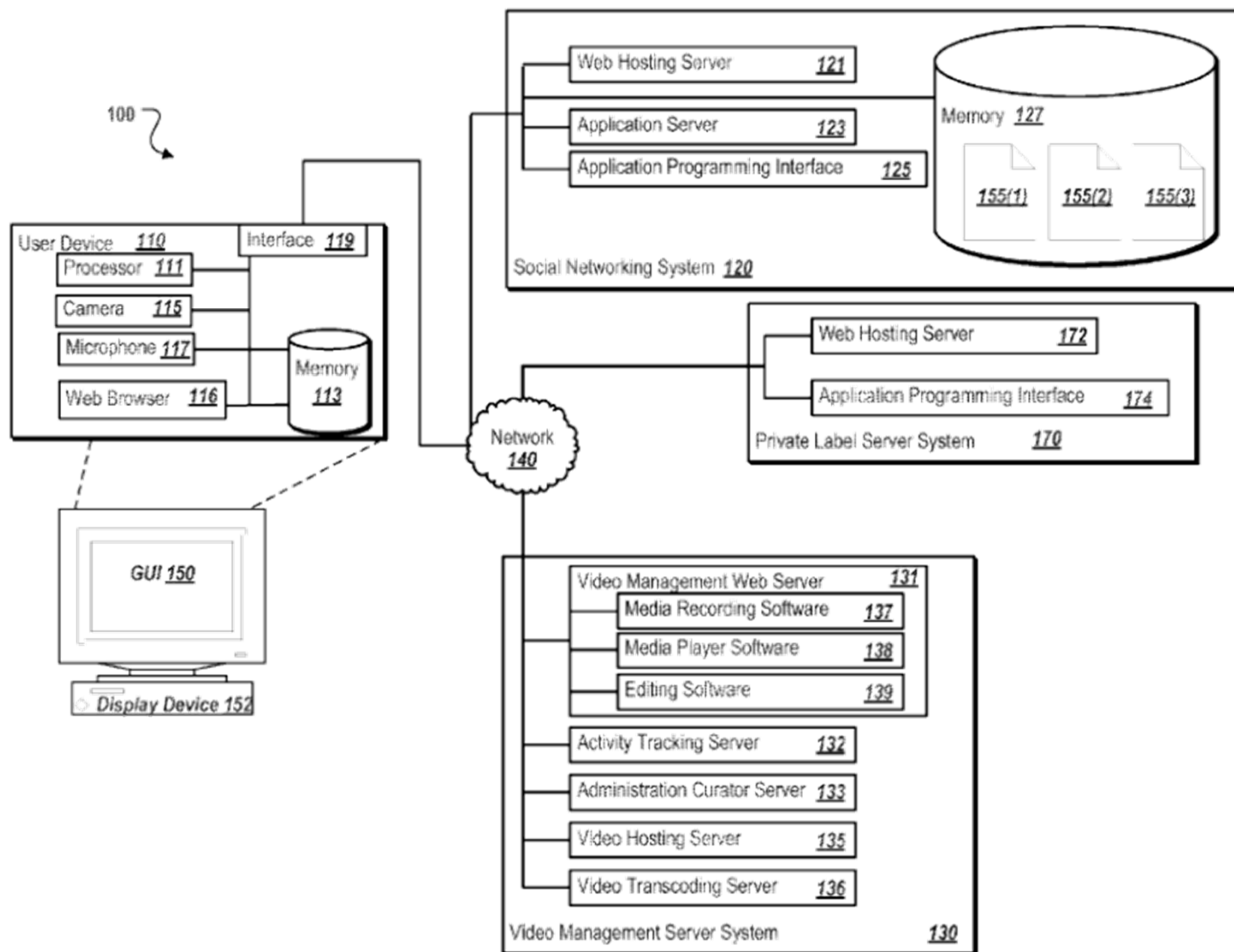


Fig. 1A of '997 Patent (Ex. 1001)
829 Response at 15; 830 Response at 15.

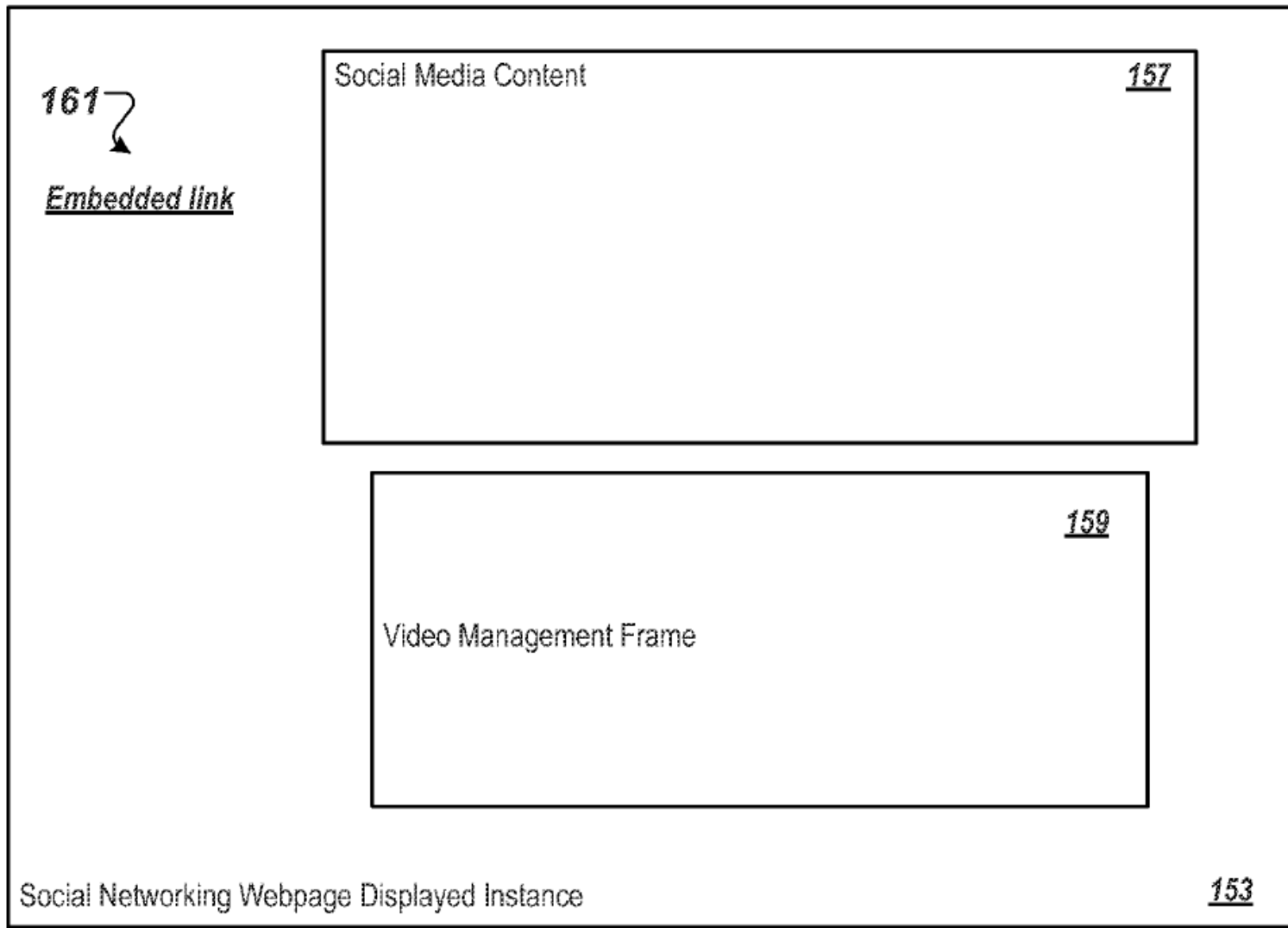


Fig. 1B of '9997 Patent (Ex. 1001)
829 Petition at 9; 830 Petition at 9 (annotations omitted).

Summary

- Bradford (Ex. 1010) is not a printed publication
- video stream \neq video file
- Nassiri+Bradford \neq receive & generate file from video stream
- Nassiri+Bradford \neq (a) a displayed link to software invoked in the same webpage, or (b) a content capture interface provided in a GUI in response to selection of a displayed link
- A POSITA would not pair Tosh.0 with Nassiri
- Lerman discloses client-side editing and is inapplicable

829 Grounds 1-4 (all grounds)

830 Grounds 1-2 (all grounds)

Bradford (Ex. 1010) is not a printed publication

'997 Priority Date = May 9, 2012

(12) **United States Patent**
Harwell et al.

(10) **Patent No.:** **US 9,083,997 B2**
(45) **Date of Patent:** ***Jul. 14, 2015**

(54) **RECORDING AND PUBLISHING CONTENT
ON SOCIAL MEDIA WEBSITES**

(58) **Field of Classification Search**
CPC H04N 5/44591; H04N 21/2743; H04N
21/4143; H04N 21/4782; H04N 21/4788;

(71) Applicant: **Youtoo Technologies, LLC**, Irving, TX
(US)

(72) Inventors: **Mark A. Harwell**, Plano, TX (US);
Christopher W. Wyatt, Dallas, TX
(US); **Ryland M. Reed**, North Richland
Hills, TX (US)

(60) Provisional application No. 61/644,909, filed on May
9, 2012.

U.S. PATENT DOCUMENTS

(73) Assignee: **YooToo Technologies, LLC**, Irving, TX
(US)

5,488,433 A 1/1996 Washino et al.
5,982,425 A 11/1999 Allen et al.

(Continued)

(*) Notice: Subject to any disclaimer, the term of this
patent is extended or adjusted under 35
U.S.C. 154(b) by 113 days.

This patent is subject to a terminal dis-
claimer.

FOREIGN PATENT DOCUMENTS

WO 01/80039 10/2001

OTHER PUBLICATIONS

International Search Report and Written Opinion of the International
Searching Authority issued in International Application No. PCT/
US2012/022353 on Aug. 2, 2013; 14 pages.

(Continued)

Primary Examiner — Robert Chevalier

(74) *Attorney, Agent, or Firm* — Spencer C. Patterson, P.C.

(57) **ABSTRACT**

Methods, systems, and apparatus, including computer pro-
grams encoded on a computer storage medium, for recording
and publishing content on social networking websites and
other websites include providing an imbedded link on a social
networking webpage to media recorder software stored on an
external server system, invoking the media recorder software
within a displayed instance of the social networking webpage
through an application programming interface for the social
networking webpage, receiving a video stream defining video
captured using the media recorder software at the external
video management server system, generating and storing a
video file using the received video stream at the external
server system, selecting the stored video file for distribution
via one or more communication networks, and providing the
stored video file for display within displayed instances of
webpages hosted on external web server systems.

35 Claims, 6 Drawing Sheets

(65) **Prior Publication Data**
US 2013/0302005 A1 Nov. 14, 2013

Related U.S. Application Data

(63) Continuation of application No. 13/475,765, filed on
May 18, 2012, now Pat. No. 8,311,382.

(60) Provisional application No. 61/644,909, filed on May
9, 2012.

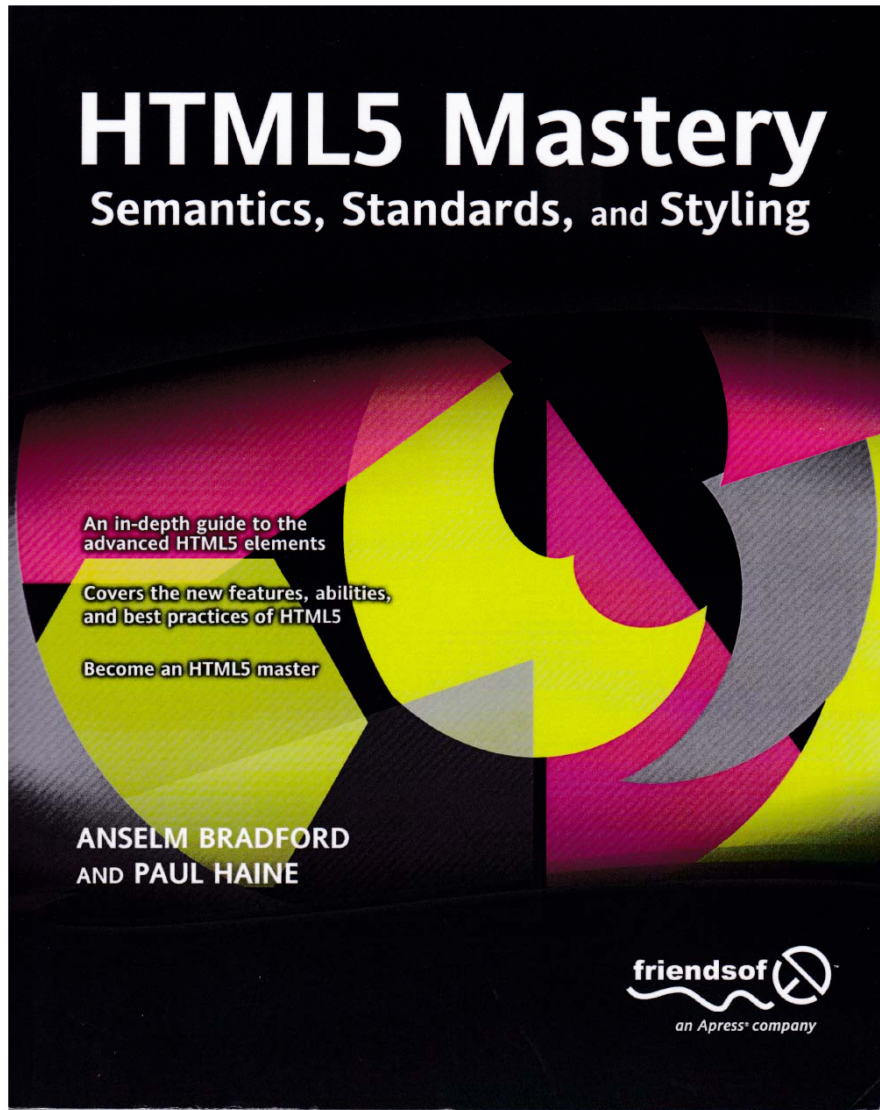
(51) **Int. Cl.**
H04N 5/765 (2006.01)
H04N 5/92 (2006.01)
(Continued)

(52) **U.S. Cl.**
CPC **H04N 21/2408** (2013.01); **H04N 21/2743**
(2013.01); **H04N 21/4223** (2013.01); **H04N**
21/4782 (2013.01)

Ex. 1001 at (60).

829 Response at 1, 2, 6; 830 Response at 1, 2, 6.

Ex. 1010 was not published in 2011



Ex. 1010 at 1/11 (“Bradford”).

829 Response at 1-2

830 Response at 1-2.

Made in the USA
Middletown, DE
13 December 2015

Ex. 2004 at 324/326.

829 Response at 2, 4

830 Response at 2, 4.

Petitioner fails to show Ex. 1010 published pre-2012

“At the outset, Petitioner has failed to show that Exhibit 1006 is the version of Kistler that was published in ACM TRANSACTIONS ON COMPUTER SYSTEMS.”

- *Dropbox, Inc. v. Synchronoss Tech., Inc.*, IPR2016-00851, slip op. at 19 (PTAB Oct. 5, 2017) (Paper 40).
- 829 Response at 3; 830 Response at 3.
- 829 Sur-Reply at 3; 830 Response at 3.

Petitioner's burden to prove Ex. 1010 a printed pub.

“Petitioner is mistaken because it is not Patent Owner's burden to show differences between the prior art Petitioner relies on in Exhibit 1006 and the actual document that Petitioner asserts is the published journal article in Exhibit 1027. Instead, ***it is Petitioner's burden to establish sufficient evidence*** that Exhibit 1006 is what its Petition and supporting declarations purport it to be. 35 U.S.C. § 312(a)(3)(A).”

- *Dropbox, Inc. v. Synchronoss Tech., Inc.*, IPR2016-00851, slip op. at 19 (PTAB Oct. 5, 2017) (Paper 40) (emphasis added).
- 829 Response at 3; 830 Response at 3.
- 829 Sur-Reply at 4; 830 Sur-Reply at 4.

Petitioner's "later printing" argument a red-herring

"Patent Owner also observes that Stevens² specifically states that it is the '24th Printing September 2010." Prelim. Resp. 30–31 (quoting Ex. 1013, .010). Petitioner provides ***no evidence that the 24th printing generated in 2010 (long after the 1997 priority date of the '948 patent) discloses the same material as earlier printings*** that may antedate the '948 patent. Thus, on its face, Exhibit 1013 contradicts Petitioner's unsupported assertion that it pre-dates the '948 patent priority date."

- *Intel Corp. v. Alacratech, Inc.*, IPR2017-01395, slip. op at 7 (PTAB Nov. 22, 2017) (Paper 8) (emphasis added), *aff'd on reh'g*.
- 829 Response at 3-4; 830 Response at 3-4; *see also* 829 Reply at 29 and 830 Reply at 19.

Library book not available before MARC 955 W date

4 Q. Okay. So just to make sure I understand, if
5 there was a date associated with MARC field 955,
6 subfield W, it is unlikely that material associated with
7 that record was available to review at the library prior
8 to that date; is that accurate?

9 A. That is accurate with the proviso that we're
10 talking about a particular library, not about all
11 libraries.

Ex. 2006 at 18:4-11 (emphasis added).
829 Response at 6; 830 Response at 6.

LOC Bradford version not public pre-June 22, 2012

LIBRARY OF CONGRESS
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Search Navigation 1 of 3

955 — **|b** xh12 2012-04-11 z-processor **|i** xh12 2012-04-12 to Dewey **|w** rd07
2012-06-22

BOOK
HTML5 mastery : semantics, standards, and styling

Full Record MARC Tags

000	01152cam a22003017a 4500
001	17251139
005	20120622103327.0
008	120411s2011 nyua 001 0 eng d
906	— a 7 b cbc c copycat d 2 e ncip f 20 g y-gencatlg
925	0_ a acquire b 2 shelf copies x policy default
955	— b xh12 2012-04-11 z-processor i xh12 2012-04-12 to Dewey w rd07 2012-06-22

Ex. 1011 at 53-54 (emphases added).
829 Response at 6; 830 Response at 6-7.
829 Sur-Reply at 8; 830 Sur-Reply at 8.

Exhibits 1041-1043 are untimely

“(b)Late submission of supplemental information. A party seeking to submit supplemental information more than one month after the date the trial is instituted, must request authorization to file a motion to submit the information. The motion to submit supplemental information must show why the supplemental information reasonably could not have been obtained earlier, and that consideration of the supplemental information would be in the interests-of-justice.”

- 37 CFR §42.123(b).
- 829 Sur-Reply at 3; 830 Sur-Reply at 3.

Exhibits 1041-1043 are untimely

“We agree with Patent Owner that Petitioner’s *evidence* [purportedly of publication] ... *filed with its Reply is untimely.*”

- *Dropbox, Inc. v. Synchronoss Tech., Inc.*, IPR2016-00851, slip op. at 21 (PTAB Oct. 5, 2017) (Paper 40) (emphases added).
- 829 Sur-Reply at 2-3; 830 Sur-Reply at 3.

Copyright Certificate of Registration is inapplicable

Additional Certificate (17 U.S.C. 706)
Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Kary A. Lush

Acting United States Register of Copyrights and Director

Registration Number
TX 7-482-555

**Effective date of
registration:**
January 18, 2012

Title _____

Title of Work: HTML5 Mastery

Completion/ Publication _____

Year of Completion: 2011

Date of 1st Publication: November 8, 2011

Nation of 1st Publication: United States

International Standard Number: ISBN

978-1-4302-3861-4

Ex. 1041 at 1/2.
829 Reply at 27; 830 Reply at 17.

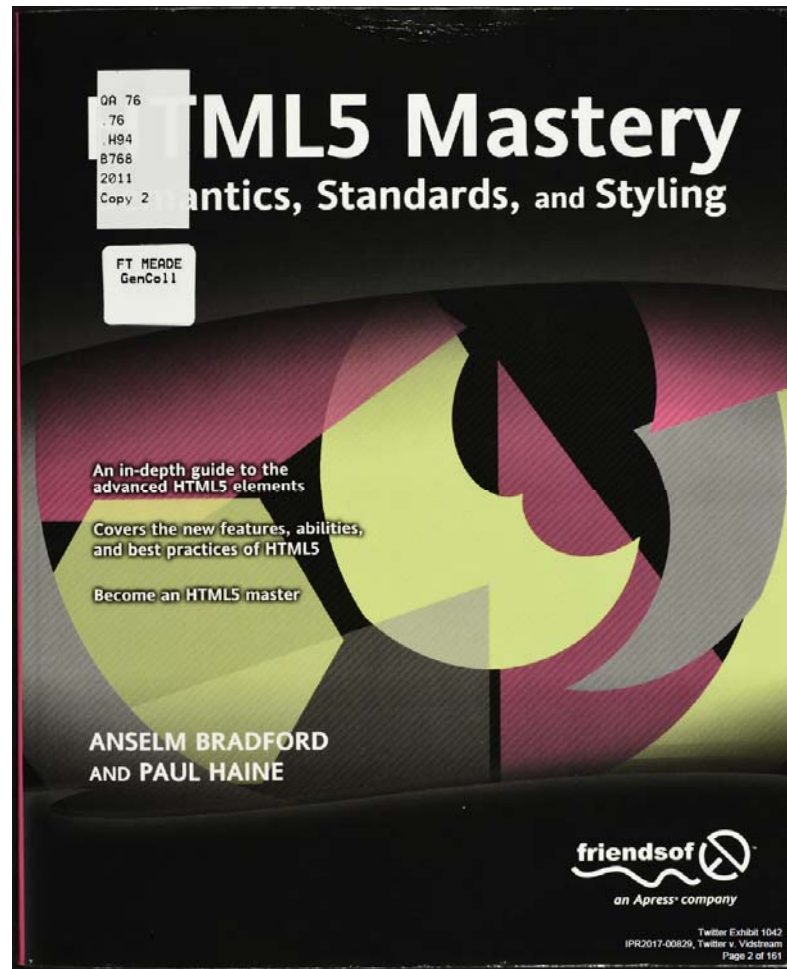
Even if considered, Exhibits 1041-1043 are irrelevant

Exhibit 1041 has ***not*** been shown to correspond to Exhibit 1042 or Exhibit 1010.

Cannot support prior publication of either of Exhibit 1042 or Exhibit 1010.

- 829 Sur-Reply at 7; 830 Sur-Reply at 7.

No showing Ex. 1042 accessible before May 9, 2012



Ex. 1042 2/161.

829 Reply at 28; 830 Reply at 18-19.

Petition relies on Ex. 1010, not Ex. 1042

“Petitioner served a supplemental declaration ... that describes Exhibit 1027 as being a copy of the actual ACM-published version of Kistler, as received by the University of Minnesota Library, but ***Petitioner does not address Exhibit 1006 [the version relied upon in the Petition]*** or describe its contents in relation to Exhibit 1027.”

- *Dropbox, Inc. v. Synchronoss Tech., Inc.*, IPR2016-00851, slip op. at 19 (PTAB Oct. 5, 2017) (Paper 40) (emphasis added).
- 829 Sur-Reply at 4; 830 Sur-Reply at 4.

Petition relies on Ex. 1010, not Ex. 1042

“Indeed, *Petitioner does not seek to replace the original submission of Exhibit 1006 with the supplemental evidence* Exhibit 1027 or explain how Exhibit 1006 is a true copy from the source Petitioner identifies, the ACM publication.”

- *Dropbox, Inc. v. Synchronoss Tech., Inc.*, IPR2016-00851, slip op. at 20 (PTAB Oct. 5, 2017) (Paper 40) (emphasis added).
- 829 Sur-Reply at 5; 830 Sur-Reply at 5.

Even if considered, “publication” ≠ factual assertion

Exhibit 1041’s conclusion of publication is ***not*** an assertion of fact and thus ***not prima facie*** evidence that a 2011 version was a printed publication.

- 829 Sur-Reply at 6; 830 Sur-Reply at 6.

“Whether an anticipatory document qualifies as a ‘printed publication’ under §102 is a ***legal conclusion*** based on underlying factual determinations.”

- *SRI Intern., Inc. v. Internet Sec. Sys., Inc.*, 511 F.3d 1186, 1192 (Fed. Cir. 2008) (citing *Cooper Cameron Corp. v. Kvaerner Oilfield Prods.*, 291 F.3d 1317, 1321 (Fed. Cir. 2002)) (emphasis added).
- 829 Sur-Reply at 5-6; 830 Sur-Reply at 5-6.

Even if considered, merely *prima facie* = rebuttable

“[C]ertificate of a registration made before or within five years after first publication of the work shall constitute ***prima facie*** evidence of the validity of the copyright and of the facts stated in the certificate.”

- 17 U.S. Code § 410(c) (emphasis added).
- 829 Sur-Reply at 5-8; 830 Sur-Reply at 5-8.

“[T]his ***prima facie evidence may be rebutted*** by convincing factual evidence to the contrary.”

- *Ex Parte Res. and Mfg. Co.*, 1989 Pat. App. LEXIS 2, *13, 10 U.S.P.Q.2D (BNA) 1657, 1660 (B.P.A.I. March 09, 1989).
- 829 Sur-Reply at 7; 830 Sur-Reply at 7.

Prima facie showing is rebutted here

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955 — |b xh12 2012-04-11 z-processor |i xh12 2012-04-12 to Dewey |w rd07
2012-06-22

BOOK
HTML5 mastery : semantics, standards, and styling

Full Record MARC Tags

000 01152cam a22003017a 4500
001 17251139
005 20120622103327.0
008 120411s2011 nyua 001 0 eng d
906 — |a 7 |b cbc |c copycat |d 2 |e ncip |f 20 |g y-gencatlg
925 0_ |a acquire |b 2 shelf copies |x policy default
955 — |b xh12 2012-04-11 z-processor |i xh12 2012-04-12 to Dewey |w rd07
2012-06-22

Ex. 1011 at 53-54 (emphases added).
829 Response at 6; 830 Response at 6-7.
829 Sur-Reply at 8; 830 Sur-Reply at 8.

George Mason record does not show publication, merely creation of a record by a book *vendor*

reasonably rely upon when forming their opinions. The MARC record at Appendix C was obtained from the George Mason University online catalog (<http://magik.gmu.edu/cgi-bin/Pwebrecon.cgi?DB=local&PAGE=First>) that I personally identified and located. Field 020 shows the Bradford book's ISBNs are 9781430238614 (ISBN-13) and 1430238615 (ISBN-10). Field 035 shows the OCLC system control number is 748329596. Field 008 informs me that the MARC record for Bradford was first created on "110825" (*i.e.*, August 25, 2011) and subfield "a" of Field 040 shows that BTCTA created the original record. BTCTA is the OCLC symbol for the book vendor, Baker & Taylor Incorporated Technical Services & Product Development. The George Mason MARC record is adopted

Ex. 1011 at ¶ 13 (emphases added).
829 Response at 7-8; 830 Response at 7-8.

Dr. Hsieh-Yee's opinions—on their face—rely on speculation, not first-hand knowledge

libraries also offer an option to display MARC records in MARC fields. After a MARC record is searchable on a library catalog, it is customary library practice to have the physical volume processed for public access soon after, usually within a couple of weeks.

* * *

15. In view of the foregoing, the first available MARC record was created on August 8, 2011, adopted by George Mason University, and modified by the Library of Congress on December 4, 2011. It is my opinion that Bradford would have been searchable on WorldCat as early as August 8, 2011, but in any event no later than December 4, 2011, and therefore accessible to the public as of that time.

Ex. 1011 at ¶¶ 11, 15 (emphases added).
829 Response at 5-11; 830 Response at 5-11.

Evidence inconsistent, not tied to version in record

Product Details

Paperback: 316 pages

Publisher: friendsofED; 1 edition (November 23, 2011)

Language: English

ISBN-10: 1430238615

ISBN-13: 978-1430238614

Ex. 1016 at 6/8.

“Dr. Hsieh-Yee’s version of Bradford, from which Ex. 1010 was excerpted, has only 313 numbered pages. . . And Dr. Hsieh-Yee’s version of Bradford includes additional un-numbered blank pages, for a total of 320 pages.”
(internal citations omitted)

829 Response at fn.4, 12-14; 830 Response at fn.4, 12-14
(all emphases added).

Ex. 1015 at 4/4.

Description: Book, 293 p.

Copyright Claimant:
Anselm Bradford,
Paul Haine.

Date of Creation: 2011

Date of Publication:
2011-11-08

Bader decl. not tied to any version in evidence, not based on any first-hand knowledge of LOC records

2. Attached as **Appendix A** is the copyright.gov website snapshot from the Library of Congress that evidences that the book authored by Anselm Bradford and Paul Haine, entitled “HTML5 Mastery,” with ISBN: 978-1-4302-3861-4 was published at least as of November 8, 2011. I obtained **Appendix A** by first

Ex. 1015 at 2/4 (emphasis added).
829 Response at 2, 12; 830 Response at 2, 12.

All Grounds Depend on Bradford

All Grounds Should be Rejected

- 829 Response at 14; 830 Response at 14.

829 Claim Construction

“video stream”

“providing, **on** a first webpage, a link” /
“providing, **on** a first webpage . . ., an imbedded link”

BRI “video stream” =

“sequential video data that is independent of and not associated with a file container.”

- 829 Response at 20-23; Ex. 2008 at ¶¶ 49-62.

1. A method comprising:
providing, on a first webpage, a link to media recorder software stored on a video management server system;
receiving a request to invoke the media recorder software within a displayed instance of the first webpage;
providing, using the media recorder software executing on the video management server system, a video recorder interface in response to the request, wherein the video recorder interface is adapted to allow a user to record video from within the displayed instance of the first webpage to the video management server system as the video is captured;
receiving a video stream at the video management server system, wherein the video stream defines video captured using controls included in the video recorder interface and wherein the video stream is received as the video is captured using the media recorder software executing on the video management server system;
generating a video file using the received video stream;
storing the video file on the video management server system.

Claim 1 of '997 Patent (Ex. 1001)
829 Petition at 23, Ex. 2008 at ¶ 61.

“Twitter does not contest (for purposes of this proceeding and applying the broadest reasonable interpretation standard) that ‘video stream’ should be construed as including ‘sequential video data.’”

- 829 Reply at 2.

A POSITA would have understood that a video stream is ***not*** a video file.

- 829 Response at 21; Ex. 2008 at ¶ 52

“[W]hile video ***files*** in certain formats can be streamed, a POSITA would have understood a ‘video stream’ to be distinct from a ‘video file.’”

- 829 Response at 21 (quoting Ex. 2008 at ¶ 52).

'997 Patent shows “video stream” ≠ video file

limited bandwidth availability. The video stream can be received by the video management server system 130, and the video hosting server 135, for example, can generate and store a video file that corresponds to the received video stream. In

'997 Patent at 10:23-26 (Ex. 1001)
829 Response at 22, Ex. 2008 at ¶ 60.

verted into a video file and stored at the server system. The video stream may be transmitted to the server system and converted into a video file in real time (i.e., as the video is being recorded). In some implementations, video editing

'997 Patent at 17:16-19 (Ex. 1001)
829 Sur-Reply at 12.

'304 Patent does not describe streaming a video file

(408). Other formats (e.g., capable of providing streaming video data) other than the FLV format (e.g., silverlight, SVG, etc.) can be implemented. In particular, and in the case of

'304 Patent at 21:56-22:11 (Ex. 1005)

829 Sur-Reply at 9.

Pet.'s expert argued “video stream” ≠ video file

are being captured. Also, a POSITA would have recognized that it would be beneficial to transmit Nassiri's video as a stream “as it is being recorded,” in accordance with Bradford's teaching, because it would obviate the need to save the video in multiple files before transmitting—which again is undesirable because it needlessly utilizes computer resources and time. Accordingly, a POSITA would

Almeroth Declaration at ¶ 158 (1007) (emphases added).
829 Sur-Reply at 15-16.

Pet.'s expert testified “video stream” ≠ video file

14 Q. Well, you said you might call a stream an
15 object but the stream wouldn't necessarily be a file?

16 A. Yeah, I don't think a stream necessarily has
17 to be a file. It could come from a file, it could go to
18 a file, but certainly you can have live streams that
19 aren't files on the server side and live streams that
20 are consumed on the receiver without becoming a file.

Almeroth Deposition at 33:14-20 (emphases added) (Ex. 2009).
829 Response at 22-23; Ex. 2008 at ¶ 60.

file transfer ≠ segmenting ≠ streaming

Video distribution methods available in 2012:

- Whole file transfer;
- Segmenting;
- Streaming.

Pet's expert conceded stream separate from file(s)

19 Q. I thought that was one of the examples that
20 you just mentioned.

21 A. See, again, how you do the encoding is really
22 independent of how you do the receiving or playing or
23 storing. I mean, really, the compressing side works to
24 generate the video. It can either do so as a stream or
25 into a single file or into subdivisions of files.

* * *

18 Q. And those options were available in May of
19 2012?

20 A. Yes. I mean we were experimenting with these
21 different techniques in the late '90s. I wrote papers
22 on how to do this stuff in 1997.

Almeroth 1st Deposition at 81:19-82:22 (emphases added) (Ex. 2009).
829 Response at 27; Ex. 2008 at ¶ 70.

BRI “providing **on** a first page, a[n imbedded] link”=
“displaying a[n imbedded] link that is visible to and
selectable by a user of the first web page.”

- 829 Response at 24-25; Ex. 2008 at ¶¶ 63-67.

829 Grounds 1-3

Nassiri and Bradford do not disclose

- (a) receiving a video stream at a server, or
- (b) generating a video file using the received video stream

Nassiri discloses segmenting, not streaming

[0028] The video generated using the video recorder may be transmitted to the video host computing system 120 for storage in video storage 126. In some examples, the video may be transmitted to the video host computing system while it is being recorded in accordance with the executable instructions for video recording 125. In other examples, the video

[0035] In block 235, the recorded video may be received and stored. In some examples, the video may be transmitted to the video host computing system 120 of FIG. 1 in part as it is being recorded. In other examples, the video is received by

Ex. 1009 at ¶¶ [0028] [0035] (emphasis added).

829 Response at 26-27; Ex. 2008 at ¶ 69.

Nassiri videos are stored and *transmitted* as files

and/or audio data. The videos may generally be transmitted and stored in any suitable file format, including but not limited to, .mpeg files, or .avi files.

Ex. 1009 at ¶ [0015] (emphases added).
829 Response at 27; Ex. 2008 at ¶ 71.

Pet's expert conceded stream separate from file(s)

19 Q. I thought that was one of the examples that
20 you just mentioned.

21 A. See, again, how you do the encoding is really
22 independent of how you do the receiving or playing or
23 storing. I mean, really, the compressing side works to
24 generate the video. It can either do so as a stream or
25 into a single file or into subdivisions of files.

* * *

18 Q. And those options were available in May of
19 2012?

20 A. Yes. I mean we were experimenting with these
21 different techniques in the late '90s. I wrote papers
22 on how to do this stuff in 1997.

Almeroth 1st Deposition at 81:19-82:22 (emphases added) (Ex. 2009).
829 Response at 27; Ex. 2008 at ¶ 70.

MPEG-4 a *streamable* file format, not *streaming*

One popular format for a media presentation is defined by the MPEG-4 format. Presentations encoded in MPEG-4 format are advantageously compact and can be streamed with relatively little occupied bandwidth. However, the MPEG-4 file format differs from conventional streaming formats, and an MPEG-4 file is not actually streamed over a transmission medium. Rather, the MPEG-4 file format corresponds to a “streamable format” or a “base format.”

Ex. 2010 at 4:23-30 (emphases added).
829 Response at 30-31; Ex. 2008 at ¶ 78.

Bradford does not generate file from *received* stream

“Bradford’s discussion of streaming from an MPEG-4 video file stands only for the everyday proposition that video content may be streamed *from* a video file. . . .[T]his is the opposite of receiving a video stream and generating a video file, a concept that is nowhere disclosed or suggested in the cited pages of Bradford.”

Pet's expert ignores Nassiri's disclosure re timing

158. Further, a POSITA would have recognized that, because Nassiri is transmitting video “in part as it is being recorded,” it would be beneficial to transmit the parts of the video as a stream, because it would allow for the video transmission to be completed or nearly complete when recording ends.

Ex. 1007 at ¶ 158.

“A user of the enterprise computing system 110 may then view or otherwise access or review the submitted videos. The videos may be accepted or declined by the enterprise, for example, by clicking an approve or disapprove button or other interface displayed on the enterprise computing system 110.”

“In other examples, the video is received by the video host computing system 120 only when the recording is complete. In some examples, a contributor may review their video and select a link or otherwise indicate their approval to submit the video to the video host computing system 120.”

Ex. 1009 at ¶¶ [0048], [0035] (emphases added); 829 Response at 35-37.

Pet's purported resource savings are not supported

are being captured. Also, a POSITA would have recognized that it would be beneficial to transmit Nassiri's video as a stream "as it is being recorded," in accordance with Bradford's teaching, because it would obviate the need to save the video in multiple files before transmitting—which again is undesirable because it needlessly utilizes computer resources and time. Accordingly, a POSITA would

Ex. 1007 at ¶ 158 (emphases added).

"Nassiri itself states that its contributor computing system 130 is fully capable of saving the entire video to a single, larger file before transmitting. . . Thus, there is simply no basis to conclude that . . . the use of computer resources and time to transmit the video file under either approach would be the least bit meaningful"

Ex. 2008 at ¶¶ 86-87 (emphases added).
829 Response at 34-35; 829 Sur-Reply at 15-18.

POSITA's alleged knowledge ≠ disclosure

“We recognize that the Board has subject matter expertise, but ***the Board cannot accept general conclusions*** about what is ‘basic knowledge’ or ‘common sense’ ***as a replacement for documentary evidence*** for core factual findings in a determination of patentability. To hold otherwise would be to embark down a slippery slope which would permit the examining process to deviate from the well-established and time-honored requirement that rejections be supported by evidence.”

- *K/S HIMPP v. Hear-Wear Techs., LLC*, 751 F.3d 1362, 1366 (Fed. Cir. 2014) (citing *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001)) (emphases added).
- 829 Sur-Reply at 19.

Petitioner's arguments suffer from hindsight bias

“[T]he Court cautions us against ‘the temptation to read into the prior art the teachings of the invention in issue.’”

- *Apple Inc. v. Papst Licensing GMBH & CO. KG*, 2018 Pat. App. LEXIS 4314, *15-16 (P.T.A.B. April 26, 2018) (quoting *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966)).
- 829 Sur-Reply at 19.

829 Grounds 1-4 (all grounds)

830 Grounds 1-2 (all grounds)

Nassiri and Bradford do not disclose:

- (a) a displayed link to software that is invoked in the same webpage, or
- (b) a content capture interface provided in a GUI in response to selection of a displayed link

Nassiri does not disclose a displayed link to an iframe

[0018] The executable instructions for website display may including executable instructions for video capture 115. The executable instructions for video capture 115 may provide the functionality of a video recorder, and may or may not be embedded within the executable instructions for website display. In some examples, the executable instructions for video capture 115 may be separate from the executable instructions for website display. In some examples, the executable instructions for video capture 115 include a link to a separate video capture page. The video capture page may be hosted, for

Ex. 1009 at ¶ [0018] (emphases added).
829 Response at 40; Ex. 2008 at ¶¶ 89-90.
830 Response at 22; Ex. 2008 at ¶¶ 46-47.
829 Sur-Reply at 22-23; 830 Sur-Reply at 11.

Nassiri does not disclose a displayed link to an iframe

[0019] In other examples, the executable instructions for video capture 115 may include executable instructions for an embedded video recorder. For example, an HTML iframe may be used to embed a video recorder in a web page provided by the enterprise computing system 110. The iframe may point users to the video host computing system 120. One example of iframe code that may be used to embed a video recorder is: `<iframe style="height:460px; width:820px; border:0px" border=0 frameborder=0 width="820" height="460" src=http://record.videogenie.com/media/?uid=123A45B6789C00D12E></iframe>`. In this example

Ex. 1009 at ¶ [0019] (emphases added).

829 Response at 40-42, 44-46; Ex. 2008 at ¶¶ 91, 94, 95, 100-102.

830 Response at 22-24, 26-28; Ex. 2008 at ¶¶ 48, 49, 51, 52, 57-59.

829 Sur-Reply at 22-23; 830 Sur-Reply at 11.

Pet's expert conceded 'src' URL is a "link"

11 Is it your opinion that that URL is not a
12 link?

13 A. Well, so to be clear, it's not a hyperlink or
14 a link in the context of something that you would click
15 on. You can consider it a -- a link in the context of
16 it's something that provides a link to another document
17 or object. But what I've relied on for what can be a
18 hyperlink and what would link -- would provide a link to
19 the embedded video recorder is not something like that.
20 I mean, it's -- it goes to the question of whether it's

Almeroth 2nd Deposition at 66:11-20 (emphases added)
(829: Ex. 2014; 830: Ex. 2010).

829 Sur-Reply at 22-23; 830 Sur-Reply at 11.

Nassiri + Bradford ≠ claimed invention

“The absence of the ‘name’ attribute means it would have been impossible for Nassiri to contain a link to this iframe.”

- 829 Ex. 2008 at ¶ 95 (quoted by 829 Response at 41).
- 830 Ex. 2008 at ¶ 52 (quoted by 830 Response at 23-24).

Petitioner's new argument suffers from hindsight bias

“[T]he Court cautions us against ‘the temptation to read into the prior art the teachings of the invention in issue.’”

- *Apple Inc. v. Papst Licensing GMBH & CO. KG*, 2018 Pat. App. LEXIS 4314, *15-16 (P.T.A.B. April 26, 2018) (quoting *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966)).
- 829 Sur-Reply at 23; 830 Sur-Reply at 11-12.

Pet's untimely argument that 2002 “embedded hyperlink” = Nassiri’s 2012 “embedded link” fails

Q. Did websites get more sophisticated **between 2002 and 2012**?

A. I think as a general principle, the answer would be yes.

Q. How so?

A. More complex websites, more sophisticated designs, new features, new services.

Q. Did new development tools come into existence in that time frame?

A. Very likely.

Q. **New terms come into usage in the art?**

A. **It's possible.**

Q. Did the **meaning of any terms evolve during that period of time**?

A. Again, **it's possible.** I mean, unless you have something specific to suggest, I'm not aware of any of the terms as they relate in, kind of, context of what I've been doing differed in any significant way.

- 829 Ex. 2014 and 830 Ex. 2010 at 48:20-49:12
- 829 Sur-Reply at 21; 830 Sur-Reply at 21.

Nassiri's purpose discourages proposed modification

[0015] Examples of the present invention include computer systems, computer readable media, and methods for video capturing, managing, and/or sharing. Examples of the invention may advantageously allow enterprises, in a scalable manner, to obtain authentic marketing materials from customers or other individuals. In particular, promotional videos may be received directly from customers or other individuals. The

Ex. 1009 at ¶ [0015] (emphases added).
829 Response at 43-44; Ex. 2008 at ¶ 99.
830 Response at 25-26; Ex. 2008 at ¶ 56.

Petitioner's asserted motivation not supported

Pet: “[O]nly users who expressed an intention to record a video—by clicking the link within the webpage—would cause the video recording software to execute and present a video recorder interface in the iframe in the currently displayed webpage, thereby sparing valuable resources on the video host computing system.”

Ex. 1007 at ¶ 109 (emphasis added).

PO: “[Because] Nassiri is designed to receive large numbers of videos, which are extremely large in size and bandwidth compared to the loading of links to video recording software that remains hosted on the video host computing system 120, the resources required to simply load the link already embedded in Nassiri’s iframe are relatively miniscule. Stated another way, resources on the video host computing system are relatively cheap compared to the potential loss of promotional videos which his proposed changes would cause.”

Ex. 2008 at ¶ 129 (829), ¶ 85 (830).

829 Response at 49-53; Ex. 2008 at ¶¶ 125-134.

830 Response at 30-33; Ex. 2008 at ¶¶ 82-89.

Reloading recorder in iframe = pointless, repetitive

116. As shown, nothing changes! Therefore a POSITA would not be motivated to make these changes. Moreover, a POSITA would never do this because of the wasted effort of reloading the same video recording interface that has already been loaded.

This is a paragraph inside an iframe.

[Do you want to load the video capture software?](#)

Note: Because the target of the link matches the name of the iframe, the link will open in the iframe.

829 Response at 45-46; Ex. 2008 at ¶¶ 111-117.

830 Response at 27-28; Ex. 2008 at ¶¶ 68-74.

Removing Nassiri's SRC = confusing

77. Another option would be to remove the src attribute entirely, but even this would be confusing to the user because an iframe with no src attribute is a waste of space on a web page as it performs no function. The HTML code shown below has the src attribute removed entirely.



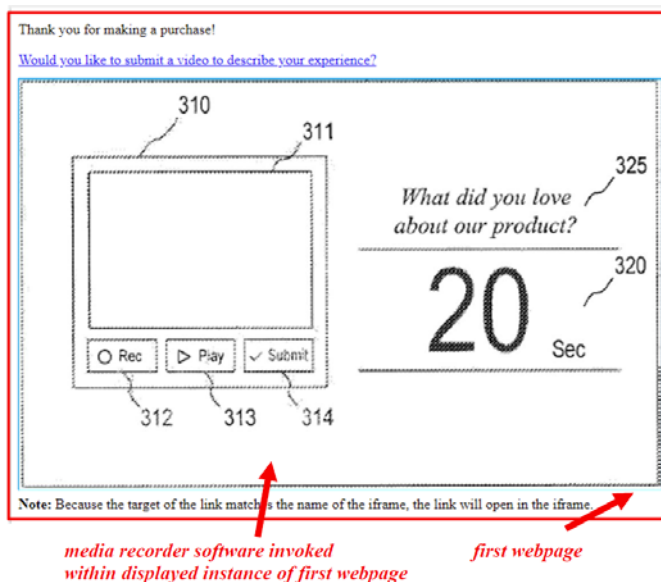
[Do you want to load the video capture software?](#)

Note: Because the target of the link matches the name of the iframe, the link will open in the iframe.

829 Response at 47-48; Ex. 2008 at ¶¶ 120-122.

830 Response at 28-30; Ex. 2008 at ¶¶ 77-79.

Reply argument undermines resource savings motivation



According to Dr. Almeroth, "instructions for video capture that are sent to the user device" may "would probably be at least a couple of hundred bytes, if not more."

However, "Nassiri's Figure 3" used in Dr. Almeroth's example "could be done with tens of kilobytes"

829 Sur-Reply at 23-24; Ex. 2014 at 106:1-17, 107:20-24.

830 Sur-Reply at 12-13; Ex. 2010 at 106:1-17, 107:20-24.

829 Ground 2

830 Ground 2

A POSITA would not have
combined Tosh.0 with Nassiri

Tosh.0 requires manual scouring of YouTube videos

From Page 15

ended, to no surprise, with a sexual joke about the always-in-peril female character of the game.

Mr. Tosh said the videos were judged on a case-by-case basis by a standards and practices department at Comedy Central. "We have all agreed that if they make a blanket rule, that will be the death of them," he said. He estimated that 95 percent of his chosen videos end up cleared for the broadcast.

Someday, he suggested, there might be a "don't try this at

home" warning attached to the show, just as there was for the MTV series "Jackass." Already some of his videos on ComedyCentral.com are preceded by a reminder that they are intended for mature audiences.

The scouring of YouTube takes two full-time researchers, "who spend most of their time online, searching for the worst and the weirdest and the funniest clips," Mr. Siskel said, adding, "both intentionally and unintentionally funny." (No, they are not hiring right now for any more professional funny-video watchers.)

The researchers add suitable clips to a database of sorts that can be mined by writers and producers. Right now they have a backlog, which Mr. Tosh is happy about: "We plan to have a show for a while, so the fewer videos we use, the better for us."

"Tosh.0" has been supported by Comedy Central in part because it is almost laughably cheap to produce. Mr. Tosh's set is a facsimile: he stands in front of a green screen for each episode. The show asserts fair use

*With a simple
checklist, turning
mishaps into catchy
comedy.*

Ex. 1017 at 3/3(emphasis added).

829 Response at 54-56; Ex. 2008 at ¶¶ 145-150.

830 Response at 35-37; Ex. 2008 at ¶¶ 94-100.

829 Ground 3

Nassiri, Bradford, and Lerman
do not disclose or suggest server-side editing

Lerman's editing is at the client, not the server:

[0022] Aspects of the invention include a user segment and a network segment. The user segment may take the form of a browser plug-in that is downloaded, or otherwise made available to be associated with the browser 108, onto the user's processor-based device, henceforth referred to as a browser enabled processor platform 104. In embodiments,

[0025] Aspects of the present invention relate to providing a browser enabled video extraction, editing and posting facility to facilitate the posting of video files on personal, professional, enterprise, e-commerce, auction, reverse auction, classified advertisement, real estate, auto, or other types of networked user resource locations.

Ex. 1012 at ¶¶ [0022], [0025] (emphases added).
829 Response at 57-58; Ex. 2008 at ¶ 151-158.

Summation

- Bradford (Ex. 1010) is not a printed publication
- video stream \neq video file
- Nassiri+Bradford \neq receive & generate file from video stream
- Nassiri+Bradford \neq (a) a displayed link to software invoked in the same webpage, or (b) a content capture interface provided in a GUI in response to selection of a displayed link
- A POSITA would not pair Tosh.0 with Nassiri
- Lerman discloses client-side editing and is inapplicable

Pet's support re: HTTP Live Streaming is a *draft*

Informational

Internet-Draft

Intended status: Informational

Expires: September 24, 2012

R. Pantos, Ed.

W. May

Apple Inc.

March 23, 2012

HTTP Live Streaming
draft-pantos-http-live-streaming-08

Abstract

This document describes a protocol for transferring unbounded streams of multimedia data. It specifies the data format of the files and the actions to be taken by the server (sender) and the clients (receivers) of the streams. It describes version 4 of this protocol.

Status of this Memo

This Internet-Draft is submitted in full conformance with the provisions of BCP 78 and BCP 79. This document may not be modified, and derivative works of it may not be created, and it may not be published except as an Internet-Draft.

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This Internet-Draft will expire on September 24, 2012.

Ex. 1037 at 1/33 (emphases added).

829 Sur-Reply at 13.

Pet's support re: DASH is after the critical date

INTERNATIONAL
STANDARD

ISO/IEC
23009-1

Second edition
2014-05-15

**Information technology — Dynamic
adaptive streaming over HTTP (DASH) —**

Part 1:

**Media presentation description and
segment formats**

*Technologies de l'information — Diffusion en flux adaptatif dynamique
sur HTTP (DASH) —*

*Partie 1: Description de la présentation et formats de remise des
médias*

Ex. 1038 at 1/152 (emphases added).

829 Sur-Reply at 13.